

DIVISION OF ACCOUNTS AND REPORTS POLICY AND PROCEDURE MANUAL

Revision Date 10/29/98

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SUBJECT

Authorized Payments to Employees for Tuition and Other Educational Expenses Under K.S.A. 75-5519.

PURPOSE

To set policy, manner of payment and procedures for payment of authorized tuition and other educational expenses of employees as provided by K.S.A. 75-5519.

CITATION OF GOVERNING STATUTES

K.S.A. 75-5519

K.S.A. 75-5519 provides that AAny state agency may pay tuition and other educational expenses for the education or training of employees when it is determined by the head of the agency that such education or training is of value to the state and such state agency. All payments under this act shall be made from appropriations to the state agency in accordance with policies and procedures developed by the Secretary of Administration for the state agency and shall be approved by the head of the state agency.≡

Internal Revenue Code Sections 61, 3401 and 162

Under IRS code section 61, the amount of employer payments for Apersonal≡ expenses, i.e. tuition and books of an employee, is usually includable in the employee's gross income, and under IRS code Section 3401, is normally subject to withholding. However, such payments under IRS Code section 162 may be included in the employee's itemized deductions, if undertaken for the purpose of: 1) maintaining or improving skills required in employment; or 2) meeting applicable law or regulations imposed as a condition to the retention of an established employment relationship, status or rate of compensation. Conversely, expenditures for education which are Apersonal or capital expenditures or have the elements of both≡ such as those which a) are required to meet the minimum educational requirements for qualifications in present employment, or b) qualify for a new trade or business, are not payable.

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Fair Labor Standards Act (FLSA) - Hours Worked

The Fair Labor Standards Act requires that each employee, not specifically exempted, receive a specified minimum wage. The act provides that persons may not be employed for more than a stated number of hours a week without receiving at least one and one-half times their regular rate of pay for the overtime hours. The following general statements apply to non-exempt state employees only.

Time attending training is not counted as working hours if the time is outside of regular working hours and the training is voluntary and the training is not directly related to the employee's job and the employee performs no productive work during attendance.

Involuntary attendance is defined as training that is required by the employer or the employee is given to understand, or is led to believe, non-attendance would adversely affect their employment.

Training directly related to the job is defined as training designed to make the employee handle his/her job more efficiently and *is not* designed to train the employee for another job, or a new or additional skill. Examples provided in FLSA regulations are: 1) A steno taking a course in stenography - (counted as hours worked) and 2) A steno taking a course in bookkeeping (not counted as hours worked-if voluntary). FLSA further provided that if a course is intended to prepare an employee for advancement to a higher skill (not intended to improve efficiency in present job) it is not considered directly related, even though it may incidentally improve current job skills.

Independent training, where an employee attends on own initiative, is not counted as hours worked.

FLSA included the following example as a special situation: If an employer established, for the benefit of employees, a program of instruction which corresponds to courses offered by independent bona fide institutions of learning, voluntary attendance outside of working hours are not hours worked, even if directly related to the employee's job, or paid for by the employer.

Travel time: Hours worked related to travel time is dependent upon the determination of the classification of training. In cases where it is determined that time in attendance at training is considered hours worked, travel time related to such training would also be considered hours worked.

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POLICY

Classifications of Training and Programs Established

To harmonize these various statutory provisions, it is necessary to adopt classifications of education and training so that proper treatment of each situation can be afforded under the appropriate statutes. *The categories under which proposed payments are made should be stated on all vouchers submitted for payment.* The basic categories are: 1) Regular in-service training, in-house training program; 2) Regular in-service training, outside training program; 3) Voluntary in-service training, in-house training programs and outside training programs; 4) Upgrade training, in-house training program; and 5) Upgrade training, outside training program.

<i>Category</i>	<i>Comments on Method of Payment</i>
Regular in-service training, in-house training program	Exempt from employment taxes. Payments for costs involved in training should be paid by regular voucher procedure to the vendor supplying training services or commodities. Payment to non-exempt employee for time in attendance at lectures, meetings, training programs and similar activities is required under FLSA.
Regular in-service training, outside training program	Exempt from employment taxes, but covered by wage and hour law provisions. Payments for costs involved in training programs shall be paid by regular voucher procedure to the vendor(s) supplying training services or commodities. Payments to non-exempt employees for time in attendance at lectures, meetings, training programs and similar activities may be required under FLSA.
Voluntary in-service training, in-house training programs	Exempt from employment taxes. Payments for costs involved in training program should be paid by regular voucher procedure to the vendor supplying training services or commodities. Payment to non-exempt employees for time in attendance at lectures, meeting, training programs and similar activities may be required under FLSA.
Upgrade training, in-house training program	Not authorized.
Upgrade training, out-side training program	Not authorized.

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Definitions Adopted

As used herein, the following words and phrases shall have the meanings respectively ascribed to each of them, unless a different meaning is plainly required by the context:

Words and Phrases

Definitions

Eligible "personnel"
or "employee"

Any appointed or elective officer or employee of a participating agency whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year.

Types of training
In-service training

Training directly related to the employee's job and is distinguished by its design to prepare the employee to handle his/her job more effectively.

Voluntary in-service training

Training which relates to the employee's job but which may add new or additional skills.

Upgrade training

Training (which is not authorized) instituted for the purpose of preparing an employee for advancement through upgrading the eligible employee to a higher skill, and is not intended to make the employee more efficient in his/her present job, even though the course incidentally improves his/her skill in doing his/her regular work.

Types of programs

In-house training programs

Programs established and supported by the Kansas Certified Public Managers (CPM) Degree Program and by agency officers and employees.

Outside training programs

Includes the authorized courses of study normally provided by professional associations, colleges and universities and by training agencies, such as the U.S. Civil Service Commission, and approved for financial participation by the State agency by reimbursement of authorized tuition and other educational expenses.

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Criteria and Conditions

Each state agency will establish the criteria and conditions to be used in selecting, assigning or allowing employees to participate in training programs and in awarding training payments. The criteria will be filed with the Director of Accounts and Reports. Sample criteria are provided beginning on page 7 of this filing.

Non-applicability to Programs Authorized by Other Statutes

These guidelines apply only to expenditures authorized by K.S.A. 75-5519.

Discrimination Prohibited

Discrimination against any person in making training awards because of political or religious opinion or affiliation, or because of race, national origin or ancestry or because of sex, age, or physical handicap, is prohibited.

Duplication of Benefits Prohibited

Payment by any agency for tuition, material, per diem, lodging, or other form of remuneration or reimbursement in connection with any training referred to above is prohibited if it duplicates such payments from any other source. This does not prohibit the planned sharing of costs or expenses by more than one source but the agency(s) must explain fully on the voucher(s) when such sharing is contemplated.

PROCEDURES

Responsibility

Action Step

Agency

1. After approval for education expense is obtained in accordance with specific agency policy, obtain necessary receipts and prepare a payment voucher (form DA-120). Vouchers for tuition should contain the following information:
 - a. Employee name
 - b. Date and name of course
 - c. Effective date of agency tuition criteria under which payment is authorized. (Required for courses taken for college credit only).

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2. Attach all necessary receipts to the payment voucher. Forward the voucher and all attachments to the Audit Services Team of the Division of Accounts and Reports. Agencies with delegated audit authority should process the documents in accordance with the agency's procedures.
- Accounts and Reports 3. Review and process the payment voucher and issue a warrant or electronic payment.

CONTACT SOURCES

Questions regarding an agency's tuition policy or FLSA matters should be directed to the agency's human resources staff or business office.

Questions regarding payment vouchers should be directed to:

Division of Accounts and Reports
Central Accounting Services Section
Audit Services Team

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SAMPLE AGENCY POLICY

(AGENCY NAME)

CRITERIA FOR APPROVAL OF PAYMENTS FOR TUITION AND OTHER EDUCATIONAL EXPENSES

Approval of payment for tuition and other educational expenses is based on the assumption that such training is of value to the state agency. That person's attendance is expected to widen their skills and knowledge base, resulting in more effective and efficient operation in the current position. The following procedures and limitations shall apply to such payments:

Training leave is defined as leave granted to an employee for attendance at short-term courses, seminars and institutes.

I. Criteria and Selection of Employees

- A. The training content must be related to the job function of the employee and improve his/her skills.
- B. The training offered shall be evaluated to determine whether the content duplicates that which the employee has had or which is scheduled by the (appropriate agency) staff development section.
- C. Attendance shall be recommended by the employee's immediate supervisor for approval by the appointing authority. Application shall be made in written form. The supervisor should take into consideration the following factors:
 - 1. Performance rating - the current rating must be satisfactory or better, and work should be current.
 - 2. Length of service - Employees must have permanent status. Exceptions may be granted with the recommendation of the supervisor and approval of the appointing authority.
 - 3. Employee's potential for growth.
 - 4. Long-term plans of the employee.

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5. Employee's attitude toward the agency.
6. Job coverage of position during absence.
7. Selection should meet criteria of affirmative action program.

D. Continued enrollment in the training program is based on written request and verification that the person has a minimum of a AB≅ average in courses completed.

E. Courses must be taken for credit. No auditing of course is acceptable.

II. Tuition (and textbooks) only is paid.

III. Leave from agency is limited to three hours weekly.

Types of Programs: The payment of agency funds for costs of educational programs shall be differentiated by type of program as specified below:

Program

Comments

In-house training program

Where the educational program is to be conducted on the basis of an in-house course established by the Certified Public Manager's (CP) Program or by or under the auspices of agency officers and employees, the full costs of such courses will be borne directly by agency appropriations available therefor, or by contracted allocation of such costs by supporting agencies and paid by agency voucher to the vendor.

Outside training program

Where the education program authorized the enrollment of specific employees in generally accepted and recognized courses offered to the public, reimbursement should be made to the provider for the cost of tuition required for the course.

Costs Authorized: Reimbursement of the following costs incurred by employees in pursuing required or voluntary in-service training courses are authorized to be paid by state agencies:

Program

Cost

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Regular in-service training The full cost arising in and out of attendance at regular in-service training courses including the following items may be paid by the state agency:

- 1) Compensation (payroll earnings) for time in commuting to or from classes and in attendance at classes (generally considered time worked under FLSA);
- 2) Travel cost in commuting to and from classes and/or on field trips as provided in the state travel reimbursement statutes and regulations;
- 3) Tuition and other usual or customary fees charged by the educational agency; and
- 4) Textbooks, laboratory fees, incidental supplies, equipment and material.

Voluntary in-service training Reimbursement for the following actual costs arising in and out of attendance at voluntary in-service training courses may be paid to the supplying vendor upon presentment of a billing to the state agency:

- 1) Tuition and other usual and customary incidental fees charged by the educational agency for enrollment in the approved courses; and
- 2) Textbooks and special charges for laboratory fees, special equipment and workbook or course material required for participation in the particular approved courses.

Note: Time in attendance in voluntary in-service training may be considered time worked under FLSA for non-exempt employees.

Agency Responsibility: The agency head will review all applications and claims for reimbursement on the basis of terms and conditions established herein.

Recovery of Costs: Any state employee who participates in training courses and whose tuition costs are paid by the agency and who withdraws from one or more courses for which the state agency has paid tuition, shall return to the state agency any monies returned to him/her by the supplying vendor to which the tuition costs were paid.

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Copies of reports of training programs will be filed with the Director of Accounts and Reports and the Director of the Kansas Certified Public Manager (CPM) Program.

SAMPLE